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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,709	09/05/2003	Donald L. Edberg	38190/268785	8279

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

JOHNSON, STEPHEN

ART UNIT PAPER NUMBER

3641

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,709

Applicant(s)

EDBERG ET AL. *ed*

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 8-11 and 14 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6, 7, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5, 8-11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Burky et al..

Burky et al. disclose a shield for attenuating a pressure blast comprising:

- a) a spray of attenuation material; col. 12, lines 30-35
- b) a structure with periphery; 225
- c) attenuation of the pressure blast by at least 14.7 psi; fig. 7; col. 5, lines 3-5
- d) pipes disposed around the periphery of the building; and 240
- e) a detector. col. 6, lines 12-19

3. Applicant's arguments are addressed as follows. It is argued that the claim limitation directed to "attenuates the pressure blast by at least 14.7 psi within a thickness of less than about 1 meter of the spray" is not met by Burky et al.. In response, please note fig. 7 and the associated written description from col. 9, line 58 to col. 10, line 17. Note that the pressures P1 and P2 compare the pressures effects when using the Burky invention with the pressure effects absent Burky's invention. Note that the pressure goes from about 170 psi to about 20 psi in 1.0 ms absent the Burky device and that the pressure goes from about 100 psi to about 10 psi in 1.0 ms with the Burky device. A comparison of the 2 graphs makes it clear that even in the initial phases of penetration of the water droplets of Burky, the reduction in pressure is about 70 psi and in later stages it remains above 14.7 psi. Only after about 1.0 ms is the difference in pressures

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reduced to about 10 psi. Also note that the test was conducted at a distance of only ten feet (3 1/3 yards or about 3 meters) (see col. 10, lines 1-5). Consequently, the reduction of pressure shown on the fig. 7 graph must take place in a distance of about 3 meters. In view of the fact that about a 70 psi reduction in pressure took place in the very initial phases of the pressure pulse, this must clearly take place in less than 1/3 the total distance involved. It might also be argued that the initial pressure is reduced from about 170 psi to about 100 psi (compare peaks of P1 and P2). Even if this pressure reduction required the maximum distance of about 3 meters (the test distance) a reduction of 70 psi over 3 meters would average to about 23 psi per 1 meter. This is an amount in excess of 14.7 psi over 1 meter as claimed by applicant.

It is further argued that the blast suppression system of Burky discloses that the total attenuation of the blast suppression system disclosed can be greater than 14.7 psi. In response, please note that applicant has claimed a reduction of blast pressure by at least about 14.7 psi. Applicant has not claimed a reduction of blast pressure to less than 14.7 psi as is now being argued. It is further argued that Burky discloses spraying his suppressant to a height of approx. 50 feet from a distance of about 150-250 feet with the suppressant landing on the area directly surrounding a large vehicle bomb. In response, this example or embodiment is not the one being relied upon to meet applicant's claim limitations. It is also argued that Burky discloses a few large capacity fog nozzles to a height of about 30 feet to provide a wide curtain of suppressant material. Once again, this example or embodiment is not the one being relied upon to meet applicant's claim limitations.

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4. Claims 3-4, 6-7, and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed on 9/30/2004 have been fully considered but they are not persuasive. These arguments have been addressed in paragraph 3 above.

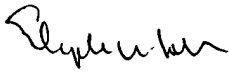
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ